



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

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**JUN -2 2016 .**

RE: MUR 7074  
(formerly AR 15-08)  
Committee for Charlotte/Charlotte  
DNC Host Committee  
and Harvey Gantt, in his  
official capacity as treasurer

Dear Mr. Reiff:

In the normal course of carrying out its supervisory responsibilities, the Federal Election Commission ("the Commission") became aware of information suggesting that your clients, Committee for Charlotte/Charlotte DNC Host Committee and Harvey Gantt, in his official capacity as treasurer (the "Committee"), may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). On December 11, 2015, the Commission notified the Committee that it was being referred to the Commission's Office of the General Counsel for possible enforcement action under 52 U.S.C. § 30109. On May 24, 2016, the Commission found reason to believe that the Committee violated 52 U.S.C. § 30102(c)-(d) and 11 C.F.R. §§ 102.9(c), 104.14(b)(1), and 9008.9(b)(4) by failing to maintain appropriate documentation to support reported in-kind contributions totaling \$2,878,882. Enclosed is the Factual and Legal Analysis that sets forth the basis for the Commission's determination.

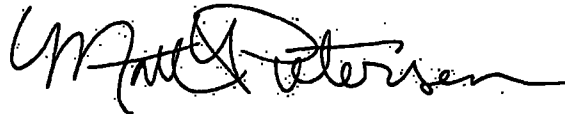
In order to expedite the resolution of this matter, the Commission has authorized the Office of the General Counsel to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. Pre-probable cause conciliation is not mandated by the Act or the Commission's regulations, but is a voluntary step in the enforcement process that the Commission is offering to you as a way to resolve this matter at an early stage and without the need for briefing the issue of whether or not the Commission should find probable cause to believe that you violated the law.

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If the Committee is interested in engaging in pre-probable cause conciliation, please contact Roy Q. Luckett, the attorney assigned to this matter, at (202) 694-1650 or (800) 424-9530, within seven days of receipt of this letter. During conciliation, you may submit any factual or legal materials that you believe are relevant to the resolution of this matter. No action by the Commission or any person and no information derived in connection with any conciliation attempt by the Commission may be made public by the Commission without the written consent of the respondent and the Commission. 52 U.S.C. § 30109(a)(4)(B). The Commission may proceed to the next step in the enforcement process if the Committee is not interested in pre-probable cause conciliation or a mutually acceptable conciliation agreement cannot be reached within 60 days. See 52 U.S.C. § 30109(a), 11 C.F.R. Part 111 (Subpart A). Conversely, if you are not interested in pre-probable cause conciliation, the Commission may conduct formal discovery in this matter or proceed to the next step in the enforcement process. Please note that once the Commission enters the next step in the enforcement process, it may decline to engage in further settlement discussions until after making a probable cause finding.

We look forward to your response.

On behalf of the Commission,



Matthew S. Petersen  
Chairman

Enclosures  
Factual and Legal Analysis

1 **FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

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5 RESPONDENTS: Committee for Charlotte/Charlotte DNC MUR 7074  
6 Host Committee and Harvey Gantt  
7 in his official capacity as treasurer  
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10 **I. INTRODUCTION**

11 This matter was generated by a Commission audit, conducted pursuant to 11 C.F.R.  
12 § 9008.54 regarding payments for presidential nominating conventions, of Committee for  
13 Charlotte/Charlotte DNC Host Committee and Harvey Gantt in his official capacity as treasurer  
14 (the "Committee"), the non-qualified party committee responsible for hosting the 2012  
15 Democratic National Convention.<sup>1</sup> The audit covered the period April 1, 2011, through  
16 December 31, 2012. On November 18, 2015, the Commission approved the Final Audit Report  
17 ("FAR" or "Attachment 1"). On December 4, 2015, the Audit Division referred Finding 1—  
18 Recordkeeping for In-Kind Contributions — of the FAR to the Office of General Counsel  
19 ("OGC") for possible enforcement action.<sup>2</sup>

20 Based on the information set forth in the Referral, the Commission finds reason to  
21 believe that the Committee violated the Federal Election Campaign Act of 1971, as amended (the  
22 "Act"), by failing to maintain appropriate documentation to support reported in-kind  
23 contributions totaling \$2,878,882.

<sup>1</sup> The Committee acted as a Host Committee for the 2012 Democratic National Convention pursuant to 11 C.F.R. § 9008.50(b). Stmt. of Org. at 2 (Feb. 16, 2011).

<sup>2</sup> Memorandum to Lisa Stevenson, Deputy General Counsel - Law, re Committee for Charlotte/Charlotte DNC Host Committee – Referral Matters, from Patricia Orrock, Chief Compliance Officer, *et al.* (Dec. 4, 2015) ("Referral").

## II. FACTUAL AND LEGAL ANALYSIS

### A. Factual Background

As described in the FAR, the Committee failed to maintain appropriate supporting documentation for the 23 in-kind contributions that it had reported to the Commission.<sup>3</sup> The reported in-kind contributions provided by corporations, commercial vendors, and individual contributors totaled \$2,878,882 as shown below:

Full Name	Date of Receipt	Amount
Rogers, James E.	2011-04-01	\$ 239,523.00
Bank of America	2011-06-01	150,124.00
Duke Energy Corporation	2011-06-01	56,205.00
Duke Energy Corporation	2011-06-01	1,332,816.00
Hunton & Williams, LLP	2011-06-01	5,000.00
UPS	2011-06-01	125,000.00
Hendrick Automotive Group	2011-09-01	70,000.00
Bank of America	2012-08-01	121,740.00
Encompass Digital Media	2012-08-15	50,000.00
Adobe Systems	2012-08-28	50,000.00
AT&T Services, Inc.	2012-09-01	175,475.00
Chiquita Brands International Inc.	2012-09-01	4,000.00
Costco	2012-09-01	27,000.00
Eco-Products, Inc.	2012-09-01	5,640.00
Good Live Beverages, Inc.	2012-09-01	2,000.00
Half Moon Bay Brewing Co.	2012-09-01	5,000.00
Reynolds Consumer Products, Inc.	2012-09-01	1,200.00
The Coca-Cola Company	2012-09-02	69,590.42
Greenberg Traurig LLP	2012-09-04	25,927.53
AT&T Services, Inc.	2012-09-06	123,087.77
Microsoft Corporation	2012-09-06	71,521.22
Duke Energy Corporation	2012-09-30	79,869.00
Duke Energy Corporation	2012-09-30	88,163.00

<sup>3</sup> See FAR at 5; 2012 Post-Convention Rpt. (Oct. 17, 2012).

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<b>In-Kind Contributions Lacking Required Documentation</b>
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<b>\$ 2,878,881.94</b>
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2 To document its in-kind contributions, the Committee maintained receipt and  
3 disbursement databases along with internal tracking forms that stated the amount of the  
4 contribution, the purpose for which the contribution would be reported, and, for one contribution,  
5 a contract reference.<sup>4</sup> The Committee, however, failed to maintain computational worksheets or  
6 obtain documentation from contributors that would allow the Committee to verify the amounts  
7 that it reported.<sup>5</sup> Also, the Committee failed to identify or value in-kind contributions having  
8 some promotional consideration.<sup>6</sup>

9 At various points during the audit, Audit staff asked the Committee for additional  
10 documentation regarding the in-kind contributions.<sup>7</sup> The Committee produced tracking forms  
11 and a "draft schedule" showing \$2,121,206 of the in-kind contributions, but those materials  
12 lacked supporting documentation and included information similar to what was already found in  
13 the Committee's database.<sup>8</sup> Further, some of the contribution amounts listed on the draft  
14 schedule were inconsistent with the amounts disclosed in the Committee's reports. The  
15 Committee ultimately acknowledged that it lacked sufficient documentation to verify the in-kind  
16 contributions that it reported to the Commission.<sup>9</sup> In response to the Draft Final Audit Report,

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<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* at 5-6.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.* at 6.

1 the Committee stated that it was trying to obtain and provide additional documentation for the in-  
2 kind transactions.<sup>10</sup> The Committee has provided no additional documentation to date. The  
3 Committee declined a hearing before the Commission on this matter.<sup>11</sup>

4 On September 17, 2015, the Commission considered the Audit Division's  
5 recommendation that the Commission find that the Committee failed to maintain appropriate  
6 documentation to support reported in-kind contributions totaling \$2,878,882.<sup>12</sup> The Commission  
7 approved Audit's recommendation.<sup>13</sup> On November 18, 2015, the Commission approved the  
8 FAR, which includes a finding that the Committee has failed to maintain appropriate records for  
9 the in-kind contributions that it received.<sup>14</sup> The Committee was provided an opportunity to  
10 respond to the Referral, but it did not.

#### 11 **B. Legal Analysis**

12 The Act defines a contribution to include a "gift, subscription, loan . . . or anything of  
13 value made by any person for the purpose of influencing any election for federal office."<sup>15</sup>  
14 "Anything of value" includes all in-kind contributions.<sup>16</sup> The Act generally prohibits  
15 corporations from making contributions to political committees, and similarly prohibits political  
16 committees from knowingly accepting or receiving prohibited contributions, but also provides a

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<sup>10</sup> *Id.*

<sup>11</sup> *Id.* at 1.

<sup>12</sup> *Id.* at 6.

<sup>13</sup> *Id.*

<sup>14</sup> *See* Referral at 1.

<sup>15</sup> 52 U.S.C. § 30101(8)(A)(1).

<sup>16</sup> 11 C.F.R. § 100.7(a)(1)(iii).

1 number of exceptions to this prohibition.<sup>17</sup> One such exception permits corporations, in certain  
2 circumstances, to provide goods or services to a host committee<sup>18</sup> that may be used in connection  
3 with a presidential nominating convention.

4 The Act and Commission regulations permit host committees to accept goods or services  
5 from commercial vendors,<sup>19</sup> individuals, and other organizations for various convention-related  
6 facilities and service expenses.<sup>20</sup> Commercial vendors may sell, lease, rent or provide their  
7 goods or services to the host committee with respect to a presidential nominating convention at  
8 reduced or discounted rates, or at no charge, provided that certain requirements are met.<sup>21</sup> The  
9 amount of an in-kind contribution shall be equal to the usual and normal value on the date  
10 received.<sup>22</sup>

11 The Act and Commission regulations also require that all committees maintain certain  
12 records regarding in-kind contributions. The treasurer of a political committee must keep an  
13 account of, among other things: (1) all contributions received by or on behalf of the committee;  
14 (2) the name and address of any person who makes a contribution in excess of \$50, together with  
15 the date and amount of the contribution; and (3) the occupation and name of employer of any

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<sup>17</sup> 52 U.S.C. §§ 30118(a), (b)(2).

<sup>18</sup> A host committee may be created to represent a city hosting a nominating convention in matters involving a presidential nominating convention. *Id.* § 9008.51. The principal objective of a host committee is the encouragement of commerce in the convention city, as well as the projection of a favorable image of the city to convention attendees. *Id.* § 9008.50(c). The Committee is a host committee. Stmt. of Org. at 2 (Feb. 16, 2011).

<sup>19</sup> Commission regulations define "commercial vendors" as "any persons proving goods or services to a candidate or political committee whose usual and normal business involves the sale, rental, lease or provision of those goods or services." 11 C.F.R. §§ 116.1(c), 9008.9.

<sup>20</sup> *Id.* §§ 9008.9, 9008.52.

<sup>21</sup> *Id.* § 9008.9.

<sup>22</sup> *Id.* § 104.13(a)(1).

individual whose contributions aggregate more than \$200 during a calendar year, together with the date and amount of any such contributions.<sup>23</sup> Also, for each in-kind contribution that a convention committee receives, it must, among other things, maintain documentation showing: (1) the goods or services provided; (2) the date(s) on which the goods or services were provided; (3) the terms and conditions of the arrangement; and (4) what promotional consideration was provided.<sup>24</sup> In addition, each political committee must maintain records with respect to the matters required to be reported — including the receipt of in-kind contributions — which provide in sufficient detail the necessary information and data from which the filed reports may be verified, explained, clarified, and checked for accuracy and completeness.<sup>25</sup> Committees must preserve these records for three years after a report is filed.<sup>26</sup>

11 There is no dispute that between April 1, 2011, and December 31, 2012, the Committee  
12 received and reported the receipt of in-kind contributions totaling \$2,878,882, and that the  
13 Committee failed to maintain appropriate supporting documentation as the Act and Commission  
14 regulations require. Therefore, there is reason to believe find reason to believe that the  
15 Committee for Charlotte/Charlotte DNC Host Committee and Harvey Gantt in his official  
16 capacity as treasurer violated 52 U.S.C. § 30102(c)-(d) and 11 C.F.R. §§ 102.9(c), 104.14(b)(1),  
17 9008.9(b)(4).

<sup>23</sup> *Id.* § 104.14(b)(1).

<sup>24</sup> *Id.* §§ 9008.9(b)(4), 9008.52.

<sup>25</sup> 52 U.S.C. § 30102(c)-(d); 11 C.F.R. § 104.14(b)(1).

<sup>26</sup> 11 C.F.R. § 102.9(c).